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September 1, 2016

VIA ELECTRONIC FILING and VIA E-MAIL (njdnef_hayden@njd.uscourts.gov)

The Honorable Katherine S. Hayden, U.S.D.J.
United States District Court,
District of New Jersey
U.S. Post Office and Courthouse
Newark, New Jersey 07102

Hon. Cathy L. Waldor, U.S.M.J.
Martin Luther King Building US Courthouse
50 Walnut Street
Newark, NJ 07101

Re: Simkova v. City of Newark et al.
Case No.: 2:13-CV-01264 (KSH)

Dear Judges Hayden and Waldor,

I regretfully write this letter because of a continuous issue of discovery non-compliance by the defendant which shall serve to irreparably prejudice the plaintiff in this matter. Subsequent to the July 6, 2016 conference before Judge Waldor, my office served Mr. Gary Lipshutz with a 30(b)(6) notice as per his request with respect to the remaining depositions in this matter. We made clear during that conference and on many conferences prior to the one on July 6, 2016 that we would need to have the transcripts of all depositions in order to submit them to our liability expert for review in rendering an opinion. Plaintiff expects to utilize the report of the liability expert in connection with her opposition to Defendant's dispositive motion which must currently be made returnable no later than October 28, 2016.

Since July 14, 2016 when the 30(b)(6) notice was served, I attempted to confirm the deposition on August 3, 2016 with Mr. Lipshutz. His response was that he had no witness available and that he needed to reschedule to the week of 8/15 or 8/22. I then advised Mr. Lipshutz that the week of 8/15 was convenient for me. Mr. Lipshutz did not respond to this communication. On August 16, 2016 my co-counsel in this matter, Mr. William Mikita, Esq,

sent yet another e-mail to Mr. Lipshutz inquiring about the deposition. Mr. Lipshutz did not respond to this e-mail either. I called Mr. Lipshutz office during the week of 8/22 and received no return call. Finally, after leaving a message on August 31, 2016 in the morning and then trying to reach Mr. Lipshutz again in the afternoon, he advised that he has been unsuccessful in his attempt to secure a witness, but he is working on it. I asked that he confirm what steps he took in a e-mail response to which he agreed but failed to do.

Mr. Lipshutz has engaged in a similar dilatory pattern of conduct throughout the course of this matter and I now seek guidance from the court as to how to address this matter. I have previously voiced these concerns during the numerous phone conferences in this matter but did not want to appear callous because I was aware of Mr. Lipshutz's prior medical condition. Lastly, I will be out of the country from 9/2/2016 at 4:30 pm until 9/11/2016, however, my co-counsel Mr Mikita has authority to address this issue in my absence. His telephone number is (732) 705-3363.

Copies of the aforementioned communications can be provided if the court shall so be inclined to review them.

Respectfully Submitted,

Fishbeyn & Briskin, L.L.C.,



By: Peter E. Briskin